

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOSEPH PEACOCK,

Petitioner,

v.

Case No. 07-12215
Hon. Lawrence P. Zatkoff

JERI ANN SHERRY,

Respondent.

ORDER

On February 17, 2009, the Court entered an order [dkt 12] adopting Magistrate Judge Morgan's Report and Recommendation and dismissing Petitioner's petition for writ of habeas corpus. In its order, the Court noted that Petitioner had not filed objections to the Magistrate Judge's Report and Recommendation within the allotted time period.

Following the Court's February 17, 2009, order, Petitioner filed a request [dkt 14] and a motion [dkt 16] for an extension of time to file objections to the Report and Recommendation. Petitioner has also filed objections to the Report and Recommendation [dkt 15]. Petitioner represents that he did not receive a copy of the Report and Recommendation until after the period to file objections had expired because his mail was sent to two other correctional facilities before reaching him.

A party's failure to timely file objections to a report and recommendation generally constitutes a waiver of that party's right to appeal that decision. *See United States v. Branch*, 537 F.3d 582, 588 (6th Cir. 2008); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981). A waiver may be excused in the "interests of justice." *United States v. Real Property Located at 1184*

Drycreek Rd., Granville, OH, 43023, 174 F.3d 720, 725–26 (6th Cir. 1999). The Court finds that the interests of justice require an excuse of Petitioner’s default, and the Court GRANTS Petitioner’s motion for an extension of time to file objections [dkt 16]. See *Williams v. McKee*, No. 5:06-CV-12836, 2009 WL 2046312, at *1 (E.D. Mich. Mar. 24, 2009) (Report and Recommendation) (recommending that the petitioner’s default be excused when he did not timely receive a copy of the report and recommendation due to his transfer of prison facilities).

Petitioner has raised two objections to the Report and Recommendation, and the Court reviews those portions of the Report and Recommendation *de novo*. See 28 U.S.C. § 636(b)(1)(C). Petitioner contests (1) the Magistrate Judge’s conclusion that the trial court did not abuse its discretion in refusing to allow Petitioner to withdraw his plea; and (2) the Magistrate Judge’s determination that Petitioner received effective assistance of counsel. Petitioner also challenges the standard that the Magistrate Judge employed in the latter determination.

Concerning Petitioner’s first objection, he provides no evidence, argument, or support for such a proposition, and he avers only that the Magistrate Judge erred in her conclusion. “The filing of vague, general, or conclusory objections does not meet the requirement of specific objections and is tantamount to a complete failure to object.” *Slater v. Potter*, 28 Fed. Appx. 512, 513 (6th Cir. 2002). The Court finds that Petitioner’s inadequate objection constitutes a waiver of Petitioner’s right to object on this issue.

After careful review, the Court finds that Petitioner’s second objection is without merit. The Magistrate Judge correctly applied the standard enunciated in *Hill v. Lockhart*, 474 U.S. 52 (1985), as interpreted by the Sixth Circuit in *Maples v. Stegall*, 340 F.3d 433 (6th Cir. 2003). Petitioner’s conclusory statement that he would have insisted on going to trial absent his counsel’s ineffective

representation falls well short of the standard required to state an ineffective-assistance claim in the plea-bargain context.

Accordingly, it is HEREBY ORDERED that Petitioner's objections to the Magistrate Judge's Report and Recommendation are OVERRULED.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: September 3, 2009

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on September 3, 2009.

s/Marie E. Verlinde
Case Manager
(810) 984-3290